In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.5166 of 2005.

Date of decision:23.10.2006.

Satish Kumar Seth.

...Petitioner.

Versus

Dev Raj and another.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.Vikram Aggarwal Advocate for the petitioner.

Mr.Sumeet Goel Advocate for respondent No.2.

...

Judgment.

S. N. Aggarwal, J.

Learned counsel for the petitioner submits that summons were given to him **Dasti.** Learned counsel for the petitioner further submits that Des Raj,respondent No.1 was served.

The case was called in the morning session but none has appeared for respondent No.1.

Now, the case has been called in the evening session but again none has appeared on behalf of respondent No.1.

The submission of learned counsel for the petitioner was that in the suit filed by Dev Raj,respondent No.1, the petitioner was proceeded against ex parte on 30.8.2001. He filed an application under Order 9 Rule 7 CPC for setting aside ex parte proceedings. The same has been dismissed by the learned trial Court vide impugned order dated 5.9.2005. Further submits that the petitioner was not served in accordance with law. He further submits that if the ex parte proceedings against him are set aside, he would file the written statement and no new issue arises. He further submits that he will not cross-examine any of the witnesses examined by Dev Raj,respondent No.1 (plaintiff in the learned trial Court). Further submits that he would make a request in the learned trial Court for only one opportunity and that he will produce his evidence at his own responsibility and will close the same.

In the circumstances stated above, orders dated 30.8.2001 and 5.9.2005 are set aside in the interest of justice.

The petitioner is directed to file written statement within two weeks from today. The learned trial Court shall take the written statement on record. In case Dev Raj respondent (plaintiff in the learned trial Court) has closed his evidence, then the learned trial Court shall give one opportunity to the petitioner to produce his witnesses at his own responsibility.

This Civil Revision is disposed of in the above terms.

Dasti on payment of usual charges.

October 23,2006. (S. N. Aggarwal)
Jaggi Judge